

**BOARD OF PHYSICAL THERAPY
MINUTES**

DATE: May 18, 2018

TIME: 9:00 a.m. Central Time

LOCATION: 665 Mainstream Drive
Iris Conference Room, 1st Floor
Nashville, TN 37243

MEMBER(S) PRESENT: David Harris, PTA, Chair
Ronald Barredo, DPT
Kelly O'Connor, Consumer
David Finch, DPT, Secretary

MEMBER(S) ABSENT: LeAnn Childress, PT

STAFF PRESENT: Michael Sobowale, Unit Director
Mary Webb, Unit Manager
Brenda Wimberly-Stewart, Board Administrator
Lara Gill, Attorney, Office of General Counsel

GUESTS: Mike Harkreader, Executive Director, TnPAP
Scott Newton, TPTA Representative
Catherine Hinton, TPTA Representative
Marcia Mann, Partner Success Manager, CE Broker

I. Call to Order

A roll call of board members and administrative staff present was taken. With a quorum present, Mr. Harris called the meeting to order at 9:00 a.m.

II. Approval of Minutes

Dr. Barredo made a motion, seconded by Ms. O'Connor, to approve the February 9, 2018 meeting minutes as written. The motion carried.

III. Report from Office of General Counsel

Conflict of Interest

Lara Gill, Board Advisory Attorney with the Office of General Counsel, reminded Board members of the conflict of interest policy. If a member has any personal or financial interest which might appear to be a conflict of interest, whether it relates to a contested case, a rulemaking issue, or any other Board decision, that fact should be shared with the Board so that a decision may be made regarding the need for recusal.

Rulemaking Hearing

Ms. Gill reminded the Board of the February 9th discussion of proposed rules revisions for continuing education in terms of the definition of home study. She explained that a rulemaking hearing will have to be scheduled if the Board decides it would like to make revisions. The rules for renewal fee reductions for Physical Therapists and Physical Therapist Assistants were approved by the Attorney General. They will become effective July 9th, 2018. There are currently no appeals from the Board, disciplinary action related matters, or civil suits. There are 10 open cases pertaining to the Board of Physical Therapy as of May 17, 2018 with 4 being against physical therapists and 6 being against physical therapist assistants. There is legislation effective April 24th, 2018 (Public Chapter 803) that creates a sunset provision for the Physical Therapy Licensure Compact, the date being June 2020. Public Chapter 793, known as the Fresh Start Act, will be discussed further later in the meeting.

A. Contested Cases

There are no contested cases to discuss at this time.

B. Consent Order(s)

Elizabeth McNeese PTA#740 - On or about August 25, 2017, Ms. McNeese was terminated from her place of employment for diverting narcotic medication from a patient. Ms. McNeese admitted to the diversion of narcotic medication from a patient, and has agreed to Voluntarily Surrender her license to practice as a Physical therapist assistant in the state of Tennessee and her privilege to practice in any other state, beginning the effective date of this order. Ms. McNeese understands that a Voluntary Surrender has the same effect as a revocation. Ms. McNeese also must pay \$250.00 in Civil Penalties. After review by the Board, Dr. Barredo made a motion, seconded by Ms. O'Connor, to accept the Consent Order as written. The motion carried.

C. Agreed Orders

There are no Agreed Orders to discuss at this time.

D. Order(s) of compliance

1. **Janice Gibbons PTA#3633** – Janice Gibbons was present. Ms. Gibbons filed a petition for an Order of Compliance pursuant to a March 10th 2016 Consent Order that temporarily placed the petitioner’s license on probation for a period of no less than two years until certain restrictions were met. Petitioner has successfully completed the probationary period as well as other required criteria. After review by the Board, Dr. Finch made a motion, seconded by Dr. Barredo, to approve the petition as presented. The motion carried.
2. **Douglas Heming PT#4554** - Mr. Heming did not appear at this board meeting. He will need to appear before the board at the next meeting in order to have his petition for an Order of Compliance approved.

E. Order(s) of Modification

There are no Orders of Modification to discuss at this time.

IV. Investigative/Disciplinary Reports

Lori Leonard, Disciplinary Coordinator, began her report with the Summary of Currently Monitored Practitioners. There are nine monitored Physical Therapists on probation, two that have been suspended, and one that has been revoked. There are currently two board orders, both of which are reprimands. There are ten monitored Physical Therapy Assistants on probation, five under suspension, two under a board order, and three that have been revoked. Ms. Leonard then moved on to the investigative report. In the fiscal year 2018, there have been eighteen new complaints filed against Physical Therapists. Three of those complaints were closed and sent to the Office of General Counsel for discipline, one was closed with no action, two were closed with a letter of concern, and four were closed with a letter of warning. Two of these cases concerned drugs, one (1) concerned sexual misconduct, five concerned action in another state, one concerned criminal charges, one concerned medical malpractice/negligence, one was for unprofessional conduct, two concerned lapsed licenses, one concerned criminal conviction, and four concerned practicing beyond the scope. In the fiscal year 2018, there have been six new complaints filed against Physical Therapist Assistants. Four of these complaints were closed and sent to the Office of General Counsel for discipline and one was closed with no action. Three of the complaints concerned falsification of records, two of the complaints concerned action in another state, and one concerned unlicensed practice.

Dr. Scott Newton, of the TPTA, approached the Board to ask that they continue to send letters to Chiropractors who use the term “Physical Therapy” in their advertisements without having a Physical Therapist in their office. Mr. Harris requested that Board Attorney, Lara Gill further research this issue and discuss it at the next meeting.

V. Receive reports/request from the Division of Health Licensure and Regulations.

Noranda French, Finance Officer, gave a review of the mid-year FY 2018 Fiscal report. The board is overall on track with its average spending amounts thus far. Administration costs for the board have increased slightly while investigation costs have increased significantly. Legal costs have decreased slightly. Cash office costs are on track. The projected net income for the Board for the fiscal year is currently \$82,292.00. The Board continues to show signs of growth with a slight increase in licensees between FY 2017 and FY 2018. It was recommended that the Board set a privilege fee for the compact no higher than \$25.00. Dr. Barredo made a motion, seconded by Ms. O'Connor, for the Board to charge \$25.00 as State compact privilege fee. The motion carried.

Legislative Updates

Lacey Blair of Legislative Affairs for the Department of **Health** presented the following legislation:

Public Chapter 803, the sunset provision for the Physical Therapy Licensure Compact. The sunset date is set for June 30th, 2020 and took effect on April 24th, 2018.

Public Chapter 611, which requires an agency that holds a public hearing to make copies available in redline form as part of the rulemaking process to people attending the hearing. This Chapter takes effect on July 1st, 2018.

Public Chapter 638, which prohibits healthcare prescribers, employees, agents, or independent contractors from in-person solicitation, telemarketing, or telephonic solicitation of victims within thirty days of an accident or disaster for the purposes of marketing services of the healing arts related to the accident or disaster. This will take effect July 1st, 2018 with exceptions in place.

Public Chapter 675, which requires the Department of Health to accept allegations of opioid abuse or diversion and for the Department to publicize a means of reporting those allegations. An entity that prescribes dispenses, or handles opioids is required to provide information to employees about reporting suspected opioid abuse and diversion. The notice is to both be provided individually to the employees in writing and documented by the employer, or by posting a sign in a nonpublic area of minimum height and width that states "Please report any suspected abuse of opioids or any other improper behavior with respect to opioids to the Department of Health Complaint Intake Line". Whistleblower protections are in place under this statute.

Public Chapter 744, which allows a licensing entity the discretion to not suspend, deny, or revoke a license in the case where a licensee has defaulted on or become delinquent on student loans if a medical hardship contributing to the delinquency has occurred. This will take effect on January 1st, 2019.

Public Chapter 754, which prevents the board from promulgating rules, statements, or interagency memoranda that infringes on an entity member's freedom of speech. Violations may result in referrals made to the General Assembly regarding an entity's sunset status, rulemaking authority, and funding. This statute took effect April 18, 2018.

Public Chapter 954, which requires that the initial licensure fee for low income individuals be waived. This includes individuals on Medicaid and SNAP. The board is required to promulgate rules to accommodate this statute which goes into effect January 1, 2019.

Public Chapter 929, requires the board to submit a list of all policies, with certain exceptions, that have been adopted or changed in the previous year to the Chairs of the Government Operations Committee on July 1st of each year. It also states that the rulemaking entity shall have authority to remove a board member, which goes into effect July 1st, 2018.

Public Chapters 745 and 793, known as the Fresh Start Act, was presented by Patrick Powell, Legislative Liaison. This Act states that licensing entities cannot deny someone a license based on a prior criminal conviction that does not directly relate to the profession that they are applying for. There are several exceptions to this Act and it takes effect July 1st, 2018.

VI. Applicant Interviews/Reviews

- A. Kathryn Moran – Ms. Moran was present. She appeared before the Board due to an indication on her criminal background check showing a conviction on the reduced charge of failure to use due regard in 2013. Ms. Moran explained the circumstances underlying her arrest for assault and battery in Boston, Massachusetts in 2008 as well as the circumstances underlying her arrest for Disorderly Conduct in Savannah, Georgia in 2013. She disclosed to the Board that she attended a sobriety program for six months in 2008 and had not had an incident in the last five years. After discussion, Dr. Finch made a motion, seconded by Dr. Barredo, to approve licensure for Ms. Moran contingent upon any stipulations given by TnPAP. The motion carried.

VII. Tennessee Professional Assistance Program (TNPAP) Report

Mike Harkreader, Executive Director, TnPAP, presented the TnPAP report for this meeting. The report constituted all data between July 2017 and March 2018. TnPAP is currently monitoring ten individuals- six on a board order and four on a non-regulatory status. There were four referrals on an Order from the Department of Health and three on board credentialing/ application review. Five monitoring agreements were signed in this time period. Four cases were closed, with three being successful completions and one due to the subject refusing to cooperate.

VIII. Ratifications

PT Adams Casee
PT Adams Zachary
PT Baxley Jody W Mrs.
PT Bowman Kacie Patricia
PT Brady Janell Rose
PT Campbell Victoria Hart Hunter
PT Carden-Mckinley Amanda Mrs.
PT Carr Bonnie Kay**
PT Carson Cody
PT Carter Morgan Alyse
PT Caudill Jeffrey Richard
PT Coats Jennifer Marie DPT
PT Conway Kelly Ann
PT Coronado Rogelio Adrian Dr.
PT Cox Douglas Paul
PT Crowe Matthew Gerard Mr.
PT Darnell Jessica Gail
PT Evans Ray Eugene Mr
PT Farless Ashley Kirsten
PT Fenton James Edward
PT Fraser Amanda Olszewski
PT Funderburg Sarah Elizabeth Dr.
PT Gagnon Laura Horvath**
PT Galvan Natalia Mariel
PT Gaskin Jacob Drew
PT Giese Tera Elizabeth
PT Graziano Matthew John
PT Guth Lindsay
PT Gwaltney Tera Lea
PT Hargrove Barbara A**
PT Harrison Willie Charles
PT Heyne Scott
PT Hoekstra Joseph Ryan
PT Hopkins Carole Lynn PT
PT Howell Bruce Mason
PT Ingle Caitlyn
PT Jeffers Kristin Alexis
PT Johnson Laura Elaine
PT Keaney Gail Suzanne Mrs
PT Key Kelly Marie
PT King-Yu Laura Kirsten MRS**
PT Kiser Erin Lindsey
PT Kress Ashley Alan
PT Laviolette Kasey

PT Lawry Rachel PT
PT Lester Heather
PT Malone Coty Alan
PT Mangialardi John Finley
PT Manneschmidt Emily Clare
PT Marnitz Shelby Christian
PT Mason Ryan George
PT Mazurek Stacy
PT Mckinley Ian
PT McMahan Kylin
PT Menigoz Andrew
PT Merchant Christopher Rajan Dr.
PT Miller Jocelyn
PT Mogill Joseph
PT Moldenhauer Cody
PT Moorehead Brandon
PT Morgan Alexis Brianne Mrs.
PT Morgan Kimberly Ann**
PT Morgan Sarah Ellen
PT Morrisett Andrea Christine
PT Nier Heath
PT Nueros Judith**
PT O'Hanlon Eugene
PT Padgett Austin DPT
PT Pennington Jilian
PT Phelps Elizabeth
PT Pons Kathleen Mcdonald Mrs.
PT Potts Kali Moriah
PT Powers Ryan
PT Rice Brett Warren Dr.
PT Rowland Mara Perez
PT Sadusky Suzanne
PT Schuller Christina Marie
PT Self Ryan Scott
PT Shah Nirali Atul
PT Shinpaugh Elizabeth Inskeep
PT Smith Tayler
PT Stephany Stacy Eason**
PT Tate Wesley William
PT Taylor Jason Richard
PT Trisler Martha Broadfield
PT Tsay Eleanor
PT Turner Isaiah
PT Wallace Kaitlin
PT Weissman Jenifer Anne Dr.
PT Wright Emily Kristin**
PT Zavalin Stefan Andreyevich

PT Miller, Sandra
PT Zeno Tiffany Lynn
PTA Allen Kayla Elaine
PTA Baggett Lake Lee
PTA Baker Staci Nicole
PTA Bell Brittany Nicole
PTA Breeden Meagan Ann
PTA Brown Amberly Sanoma Ms.
PTA Burke Maria
PTA Carrier Matthew Robert**
PTA Castano Claudia P Mrs
PTA Cline Madeline Ms.
PTA Crysel Matthew Wayne
PTA Dobbs Cierra Rae
PTA Duckworth Jeremy Daniel
PTA Duong Nyoka Mrs.
PTA Eikel Tiffany Kelaiah
PTA Endean Tabitha Leann Mrs
PTA Furlong Andrew Michael
PTA Gaither Karen Ms
PTA Hardin Michelle E Mrs.
PTA Harrison Kelsey Nicole PTA
PTA Hightower Virginia
PTA Holloway Lindsay
PTA Huggins Daniel Paul
PTA Jeffries Teresa
PTA Johnson Karen Denise**
PTA Keene Angela Rose88
PTA Layman Tracie Lynn
PTA Ledbury Nathan Alan
PTA Leeper Kayne Douglas
PTA Lenig Jenna Marie
PTA Loden Rachael
PTA Martinez Audriana Belen
PTA Mckeithan Lindsey Nicole
PTA Mitchell Ashley Lynn
PTA Mitchell Melissa Jonell
PTA Morris Kaitlin R
PTA Mullinicks Christopher Garrett
PTA Osborne Katelyn Rose
PTA Reap David Shawn II Mr.
PTA Rhoad Victoria Grace
PTA Richardson Dadrion Ontez
PTA Richardson Lexie Grace
PTA Roberts Haley Paige
PTA Rodriguez Cecilia
PTA Rose Bethanie Lashea

PTA Rose Robert Dylan
PTA Smith Jamila**
PTA Spear Elijah Norris
PTA Thompson Marykate
PTA Wachtler William Eric
PTA Wallace Paula Leighann
PTA Welker Rebecca L.**
PTA Perra, Kimberly Elaine

The names with an asterisk represent Reinstatements

Dr. Barredo made a motion, seconded by Ms. O'Connor, to approve the above list of PT/PTA initial, reinstatements, and closed applications as presented. The motion carried.

IX. Administrative Report

Brenda Stewart, Board Administrator, presented the following administrator's report:

In total, there are 5646 active Physical Therapists and 3748 active Physical Therapist Assistants as of February 5, 2018 through May 15, 2018

Physical Therapists

- New Applications Received - 151
- New Licenses Issued— 92
- Reinstated— 9
- Retired – 12
- Expired – 72
- Closed - 5
- Renewals—444 (total) as follows:

185-paper

259-online

Physical Therapist Assistants

- New Licenses Received - 143
- New Licenses Issued— 52
- Reinstated— 6
- Retired- 11
- Expired -52
- Closed - 6
- Renewals— 264 (total) as follows:

88-paper

176 -online

TSAC Orders of Default – 12/01/2017 thru 2/09/2018

Physical Therapist – Tamela Jordan, 6384. The suspension was lifted.

Physical Therapist Assistant – There was none to report at this meeting.

Unit Director's Report

A. Agreed citation(s)

Mr. Sobowale presented an Agreed Citation on Laura Gagnon, Physical Therapist #5944. She failed to renew her license and then proceeded to practice on her lapsed license for approximately 4 months. She agreed to pay a fee of \$750.00 in Civil Penalty as required by the Board. After review, a motion was made by Dr. Barredo to accept the Agreed Citation, which was seconded by Kelly O'Connor. The motion carried.

B. CWT survey

Mr. Sobowale asked the Board for clarification regarding a few questions on a survey submitted by the Federation of State Boards of Physical Therapy (FSBPT) regarding preference for course work tool (CWT) to be applied during evaluation of a foreign-trained PTA applicant's training and education. After an extensive discussion regarding regulations and policies for foreign trained PTAs, it was determined that the most current year should be used for initial licensure. Mr. Sobowale stated that he would complete the survey and send it back.

C. TOEFL

Mr. Sobowale discussed FSBPT'S notice regarding 2018 NPTE requirements for TOEFL and recommended standards to be required for eligibility of non-CAPTE trained applicants to take the NPTE, beginning January 1, 2020. FSBPT will also not require TOEFL if the state where they are applying doesn't require TOEFL. However, TOEFL is still required in the Tennessee Practice Act, with an exception for applicants coming from countries where English is the primary language. FSBPT currently plans to require use of the CWT 6 for non-CAPTE trained Physical Therapists no sooner than January 2020.

X. Correspondence

- A. Correspondence was reviewed by the Board from Caroline Lampley, who had been requesting an extension between 2016 and 2017 but had already renewed her license in 2016. Because of this, no action was taken by the Board.
- B. Correspondence was reviewed by the Board from Carmen Ogez, who asked from a letter from the Board approving her newly developed clinical educational site. Mr. Sobowale read the email from the APTA. The Board decided that Ms. Ogez did not need a formal approval from Tennessee Board of Physical Therapy.

XI. Discuss/Take Action on Legislation

This item was covered earlier in the meeting.

XII. Discuss/ Take Action on Rules, Rule Amendments, and Policies

It was determined by the Board earlier in the meeting that a Taskforce would be established to address this item.

XIII. Discuss New and Old Board Business

- A. After brief discussion among the Board, it was determined that there was language within these statutes that was supposed to be taken out but was still in the text. Dr. Newton of the TPTA came before the Board and explained the events that lead to this issue regarding Continuing Education approval entities. The Board determined that this would need to be further addressed by the Taskforce meeting.
- B. Ms. Gill passed out packets with the current rules for Home Study courses counting as CE hours for discussion/review. After brief discussion among the Board, Ms. O'Connor made a motion, seconded by Dr. Barredo, to table this item until the Taskforce meeting. The motion carried.
- C. The Board discussed Public Chapter 350 for Physical Therapists and Physical Therapist Assistants in terms of counting volunteer hours for up to 20% of continuing education requirements. It was determined that a rule would need to be created to properly address this matter. A motion was made by Ms. O'Connor, seconded by Dr. Finch, to create a taskforce to review the Practice Act. The motion carried.

Catherine Hinton, TPTA Representative discussed TPTA's Ethics and TN Jurisprudence course to be approved by the Board. An emergency meeting was scheduled to address this issue on May 23rd, 2018 at 9:00 am via teleconference.

D. Mr. Sobowale explained to the Board that Tennessee is one of only nine states in the country that requires a Type I Certificate for foreign trained applicants. Dr. Barredo made a motion, seconded by Mr. Harris, to refer the Type I Certificate discussion to the Taskforce for further review. The motion carried.

E. Marcia Mann came before the Board to present a CE Broker presentation. Utilization of CE Broker's software can be used both to help health professionals track their CE hours as well as for auditing purposes. There are three different account options, with one option being free and the other two costing a yearly fee. There will be further information on the website regarding the specific requirements of how many hours can be online, how many need to be in person, and so forth. A mobile app will also be provided that will allow an additional resource for users to track and record their hours. Users with another license in a state that also uses CE Broker will be able to link their accounts. With this software, the Board administrative staff can look at a licensee's account and audit their CE hours as necessary. The Board discussed potentially phasing out the current CE auditing system and eventually transitioning to CE Broker as a mandatory requirement. Ms. O'Connor made a motion, seconded by Dr. Finch, to set the mandatory CE Broker use date to July 1st, 2020. The motion carried.

XIV. Discuss/Approve/Follow Up on Conferences to Attend/Attended

1. A motion was made by Kelly O'Connor, and seconded by Dr. Barredo, to send Lara Gill to the FARB Regulatory Law Seminar on September 27-29, 2018 in Portland, Oregon. The motion carried.

Adjournment

There being no further business, Dr. Barredo made a motion, seconded by Mr. Finch, to adjourn the meeting at 12:42 p.m. The motion carried.

David Harris, Board Chair

Date

These minutes were ratified by the board at the August 10, 2018 meeting.